



**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)  
FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)  
APPEAL DECISION**

*FEMA Flood Insurance Appeal Decision #A8*

## **OVERVIEW**

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The policyholder filed an appeal in December 2018, alleging their flood insurance carrier (hereinafter “insurer”) improperly denied part of their claim under the Standard Flood Insurance Policy (SFIP)<sup>1</sup> for damages to covered property arising from a flood event in October 2018.<sup>2</sup>

In its review, FEMA found the following facts relevant:

- At the time of loss, the insured property was in the process of being built. The building is a post-FIRM (Flood Insurance Rate Map) multi-family townhome in flood zone AE.
- The policy was originally written under the General Property Form, as the application identified the building as a non-residential building under construction. The policyholder purchased \$435,000 in building coverage. This was later corrected to the Dwelling Form, as the townhome occupancy was intended for residential use.
- The policyholder notified the insurer of the loss, and the insurer sent an adjuster to inspect the property.
- In October 2018, the adjuster inspected the property and measured waterlines of 54 inches on the exterior and 37 inches to lower level. Floodwaters remained at the property for approximately 144 hours.
- The adjuster noted that the property was listed as elevated, but was built upon a non-elevated slab-on-fill foundation. The adjuster made an underwriting referral to the insurer and suggested a reformation of the policy to reflect that the building was not elevated.
- In a letter dated November 2018, the insurer denied coverage for the loss. The insurer’s letter wrote that the damages totaled below the double deductible assessed on a building under construction. Additionally, the insurer applied post-FIRM elevated coverage restrictions to the lower level of the building.
- The policyholder appeals the insurer’s denial, stating the property is not elevated. In support of their appeal, the policyholder includes blueprints, specifications, and an elevation certificate.

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<sup>1</sup> See 44 C.F.R. § 61.13 (2018); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

<sup>2</sup> The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim. The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

## RULES

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An elevated building is defined as a building that has no basement and has its lowest elevated floor raised above the ground level by foundation or shear walls, posts, piers, pilings, or columns.<sup>3</sup>

If the premium received is not enough to buy the kind and amount of coverage requested, the policy will provide only the amount of coverage that can be purchased for the premium that was received.<sup>4</sup>

If after a flood loss, the insurer discovers that the policyholder's premium payment was not enough to buy the requested amount of coverage, the insurer will send the policyholder and the mortgagee or trustee known to them a bill for the additional premium for the current and prior policy terms. If this bill is paid within 30 days of the date of the bill, the policy will be reformed to increase the amount of coverage to the originally requested amount effective to the beginning of the prior policy term.<sup>5</sup>

## ANALYSIS

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The policyholder appeals the insurer's denial and contends the property is not elevated.

The SFIP states an elevated building has no basement and has its lowest elevated floor raised above the ground level by foundation or shear walls, posts, piers, pilings, or columns.

As part of the review of the appeal, FEMA directed the insurer to have a National Flood Insurance Program General Adjuster re-inspect the property. FEMA uses General Adjusters to perform preliminary damage assessments, claim file audits, and to investigate complex claim matters. The General Adjuster found that with no presence of posts, piles, piers, columns, foundation walls or shear walls to support the second floor of the building, the building should be classified as non-elevated, as it is built on a concrete slab on fill foundation.

Based on these findings, FEMA agrees that the building is non-elevated, and that post-FIRM elevated building restrictions should not apply to the claim. FEMA also agrees with the insurer's actions of reforming the policy to reflect the correct building description.

The SFIP states that if the premium received is not enough to buy the kind and amount of coverage requested, the policy will provide only the amount of coverage that can be purchased for the premium that was received. Because the premium received for this term totaled less than the amount of premium needed for the original requested coverage limit under the reformed policy, the insurer reduced the coverage limit to the amount that the premium paid for this term would purchase under the revised rates for a non-elevated building.

If it is discovered after a flood loss that the premium payment was not enough to buy the requested amount of coverage, the policyholder and the mortgagee or trustee known to them will be sent a bill for the additional premium for the current and prior policy terms. If this bill is paid within 30 days of the date

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<sup>3</sup> See SFIP (II)(B)(14).

<sup>4</sup> See SFIP (VII)(G)(1).

<sup>5</sup> See SFIP (VII)(G)(2)(b)(1).

of the bill, the policy will be reformed to increase the amount of coverage to the originally requested amount effective to the beginning of the prior policy term.

Based on the information presented, FEMA agrees with the insurer's policy reformation.

## **CONCLUSION**

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Based on the facts and analysis above, FEMA agrees with the insurer's decision to overturn the denial of the claim due to post-FIRM elevated coverage limitations. FEMA agrees with the insurer's reformation of the policy to a non-elevated building.

FEMA recommends the policyholder reach out to their local community to discuss the floodplain regulations that apply in their area to ensure they are compliant with local ordinance.